

# House File 362 - Introduced

HOUSE FILE 362

BY SALMON

## A BILL FOR

1 An Act relating to operating while intoxicated offenders  
2 and persons involved in the sale of alcoholic beverages,  
3 including the establishment of a statewide sobriety and  
4 drug monitoring program, establishing fees, and providing  
5 penalties.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

STATEWIDE SOBRIETY AND DRUG MONITORING PROGRAM

Section 1. LEGISLATIVE FINDINGS — PURPOSE.

1. The general assembly finds that operating a motor vehicle in this state is a privilege, not a right. A person who wishes to enjoy the benefits of this privilege shall accept the corresponding responsibilities.

2. The general assembly declares that the purpose of this division of this Act is to do all of the following:

a. Protect the public health and welfare by reducing the number of people on the highways of this state who operate a motor vehicle under the influence of alcohol or a controlled substance.

b. Protect the public health and welfare by reducing the number of offenders who commit crimes in which the abuse of alcohol or a controlled substance is a contributing factor in the commission of the crime.

c. Strengthen the pretrial and post-trial options available to prosecutors and judges in responding to offenders who commit crimes in which the abuse of alcohol or a controlled substance is a contributing factor in the commission of the crime.

d. Assure the timely and sober participation of offenders in judicial proceedings.

3. The general assembly declares that it is important to have a centralized repository for all information related to alcohol and controlled substance testing required by the laws of this state or as a condition of bond, pretrial release, sentence, probation, parole, or a temporary restricted license.

Sec. 2. NEW SECTION. 901D.1 Short title.

This chapter shall be known and may be cited as the "*Iowa Sobriety and Drug Monitoring Program Act*".

Sec. 3. NEW SECTION. 901D.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Alcohol*" means an alcoholic beverage as defined in

1 section 321J.1.

2 2. "*Controlled substance*" means as defined in section  
3 124.101.

4 3. "*Department*" means the department of public safety.

5 4. "*Eligible offense*" means a criminal offense in which the  
6 abuse of alcohol or a controlled substance was a contributing  
7 factor in the commission of the offense, as determined by the  
8 court or governmental entity of the participating jurisdiction.  
9 "*Eligible offense*" includes but is not limited to a first or  
10 subsequent offense of operating while intoxicated in violation  
11 of section 321J.2.

12 5. "*Immediate sanction*" means a sanction that is applied  
13 within minutes of a failed test result.

14 6. "*Law enforcement agency*" means a law enforcement agency  
15 charged with enforcement of the program created under this  
16 chapter.

17 7. "*Participating jurisdiction*" means a county or other  
18 governmental entity that chooses to participate in the program  
19 created under this chapter.

20 8. "*Sobriety and drug monitoring program*" or "*program*" means  
21 the program established pursuant to section 901D.3.

22 9. "*Testing*" means a procedure or set of procedures  
23 performed to determine the presence of alcohol or a controlled  
24 substance in a person's breath or bodily fluid, including  
25 blood, urine, saliva, and perspiration, and includes any  
26 combination of breath testing, drug patch testing, urine  
27 analysis testing, saliva testing, and continuous or transdermal  
28 alcohol monitoring. Subject to section 901D.3, the department  
29 may approve additional testing methodologies or the testing of  
30 alternative bodily fluids.

31 10. "*Timely sanction*" means a sanction that is applied  
32 within hours or days after a failed test result. A timely  
33 sanction shall be applied as soon as possible, but the period  
34 between the failed test result and the application of the  
35 timely sanction shall not exceed five days.

1     Sec. 4. NEW SECTION.   901D.3   Program created.

2     1. The department of public safety shall establish a  
3 statewide sobriety and drug monitoring program to be used  
4 by participating jurisdictions, which shall be available  
5 twenty-four hours per day, seven days per week. Pursuant to  
6 the provisions of this chapter, a court or governmental entity,  
7 or an authorized officer thereof, within a participating  
8 jurisdiction may, as a condition of bond, pretrial release,  
9 sentence, probation, parole, or a temporary restricted license,  
10 do all of the following:

11     a. Require a person who has been charged with, pled guilty  
12 to, or been convicted of an eligible offense to abstain from  
13 alcohol and controlled substances for a period of time.

14     b. Require the person to be subject to testing to determine  
15 whether alcohol or a controlled substance is present in the  
16 person's body in the following manner:

17         (1) At least twice per day at a central location where an  
18 immediate sanction can be effectively applied.

19         (2) Where testing under subparagraph (1) creates a  
20 documented hardship or is geographically impractical, by an  
21 alternative method approved by the department and consistent  
22 with this section where a timely sanction can be effectively  
23 applied.

24     2. a. A person who has been required to participate in the  
25 program by a court or governmental entity and whose driver's  
26 license is suspended or revoked shall not begin participation  
27 in the program or be subject to the testing required by the  
28 program until the person is eligible for a temporary restricted  
29 license under applicable law.

30     b. In order to participate in the program, a person shall be  
31 required to install an approved ignition interlock device on  
32 all motor vehicles owned or operated by the person.

33     c. A person wishing to participate in the program who has  
34 been charged with, pled guilty to, or been convicted of an  
35 eligible offense, but has not been required by a court or

1 governmental entity to participate in the program, may apply  
2 to the court or governmental entity of the participating  
3 jurisdiction on a form created by the participating  
4 jurisdiction, and the court or governmental entity may order  
5 the person to participate in the program as a condition  
6 of bond, pretrial release, sentence, probation, parole,  
7 or a temporary restricted license. The application form  
8 shall include an itemization of all costs associated with  
9 participation in the program.

10 3. The program shall be evidence-based and shall satisfy at  
11 least two of the following requirements:

12 a. The program is included in the United States substance  
13 abuse and mental health services administration's national  
14 registry of evidence-based programs and practices.

15 b. The program has been reported in a peer-reviewed journal  
16 as having positive effects on the primary targeted outcome.

17 c. The program has been documented as effective by informed  
18 experts and other sources.

19 4. a. The core components of the program shall include  
20 the use of a primary testing methodology for determining the  
21 presence of alcohol or a controlled substance in a person that  
22 best facilitates the ability of a law enforcement agency to  
23 apply immediate sanctions for failed test results and that is  
24 available at an affordable cost.

25 b. In cases of documented hardship or geographic  
26 impracticality, or in cases where a program participant  
27 has received less stringent testing requirements, testing  
28 methodologies that best facilitate the ability of a law  
29 enforcement agency to apply timely sanctions for noncompliant  
30 test results may be utilized. For purposes of this section,  
31 hardship or geographic impracticality shall be determined by  
32 documentation and consideration of the following factors:

33 (1) Whether a testing device is available.

34 (2) Whether the participant is capable of paying the fees  
35 and costs associated with the testing device.

1 (3) Whether the participant is capable of wearing the  
2 testing device.

3 (4) Whether the participant fails to qualify for testing  
4 twice per day because of one or more of the following:

5 (a) The participant lives in a rural area and submitting to  
6 testing twice per day would be unduly burdensome.

7 (b) The participant's employment requires the participant's  
8 presence at a location remote from the testing location and  
9 submitting to testing twice per day would be unduly burdensome.

10 (c) The participant has repeatedly violated the  
11 requirements of the program while submitting to testing twice  
12 per day and poses a substantial risk of continuing to violate  
13 the requirements of the program.

14 5. A jurisdiction wishing to participate in the program  
15 shall submit an application to the department. A jurisdiction  
16 shall not participate in the program unless the jurisdiction's  
17 application for participation has been approved by the  
18 department. If a jurisdiction is approved for participation in  
19 the program, the department shall assist the jurisdiction in  
20 setting up and administering the program in that jurisdiction  
21 in compliance with this chapter.

22 6. *a.* If a jurisdiction participates in the program, the  
23 participating jurisdiction or a law enforcement agency of the  
24 participating jurisdiction may designate a third party to  
25 provide testing services or to take any other action required  
26 or authorized to be provided by the participating jurisdiction  
27 or law enforcement agency under this chapter, except a  
28 third-party designee shall not determine whether to participate  
29 in the program.

30 *b.* The participating jurisdiction, in consultation with the  
31 law enforcement agency of the participating jurisdiction, shall  
32 establish testing locations for the program.

33 7. Any efforts by the department to alter or modify a core  
34 component of the program shall include a documented strategy  
35 for achieving and measuring the effectiveness of the planned

1 alteration or modification. Before the department alters or  
2 modifies a core component of the program, a pilot program  
3 with defined objectives and timelines shall be initiated, and  
4 measurements of the effectiveness and impact of the proposed  
5 alteration or modification to a core component shall be  
6 monitored. The data shall be assessed and the department  
7 shall make a determination as to whether the stated goals of  
8 the alteration or modification were achieved and whether the  
9 alteration or modification should be formally implemented into  
10 the program.

11     Sec. 5. NEW SECTION.   901D.4   Rulemaking — fees.

12     The department shall adopt rules pursuant to chapter 17A to  
13 administer this chapter, including but not limited to rules  
14 regarding any of the following:

15     1. Providing for the nature and manner of testing, including  
16 the procedures and apparatus to be used for testing.

17     2. Establishing reasonable participant, enrollment, and  
18 testing fees for the program, including fees to pay the costs  
19 of installation, monitoring, and deactivation of any testing  
20 device. The fees shall be set at an amount such that the fees  
21 collected in a participating jurisdiction are sufficient to pay  
22 for the costs of the program in the participating jurisdiction,  
23 including all costs to the state associated with the program in  
24 the participating jurisdiction.

25     3. Providing for the application, acceptance, and use of  
26 public and private grants, gifts, and donations to support  
27 program activities.

28     4. Establishing a process for the identification and  
29 management of indigent participants.

30     5. Providing for the creation and administration of a  
31 stakeholder group to review and recommend changes to the  
32 program.

33     6. Establishing a process for the submission and approval of  
34 applications from jurisdictions to participate in the program.

35     Sec. 6. NEW SECTION.   901D.5   Data management system.

1     1. The department shall provide for and approve the use  
2 of a program data management system that shall be used by  
3 the department and all participating jurisdictions to manage  
4 testing, test events, test results, data access, fees, the  
5 collection of fee payments, and the submission and collection  
6 of any required reports.

7     2. The data management system shall include but is not  
8 limited to all of the following features:

9     a. A secure, remotely hosted, demonstrated, internet-based  
10 management application that allows multiple concurrent users to  
11 access and input information.

12    b. The support of breath testing, continuous remote  
13 transdermal alcohol monitoring, drug patch testing, and urine  
14 analysis testing.

15    c. The capability to track and store events including  
16 but not limited to participant enrollment, testing activity,  
17 accounting activity, and participating law enforcement agency  
18 activity.

19    d. The capability to generate reports of system fields and  
20 data. The data management system shall allow reports to be  
21 generated as needed and on a scheduled basis, and shall allow  
22 reports to be exported over a network connection or by remote  
23 printing.

24    e. The ability to identify program participants who have  
25 previously been enrolled in a similar program in this state or  
26 another state.

27     3. Unless otherwise required by federal law, all alcohol or  
28 controlled substance testing performed as a condition of bond,  
29 pretrial release, sentence, probation, parole, or a temporary  
30 restricted license shall utilize and input results to the data  
31 management system.

32     4. The data management system shall contain sufficient  
33 security protocols to protect participants' personal  
34 information from unauthorized use.

35     Sec. 7. NEW SECTION. 901D.6 Authority to order program



1 **participation.**

2 1. A court or governmental entity, or an authorized officer  
3 thereof, in a participating jurisdiction may utilize the  
4 program as provided in this section. The program shall be a  
5 preferred program for offenders charged with or convicted of an  
6 eligible offense.

7 2. If a person convicted of a first or subsequent offense of  
8 operating while intoxicated has been required to participate  
9 in the program, has financial liability coverage pursuant  
10 to section 321.20B, and the minimum period of ineligibility  
11 for issuance of a temporary restricted license has expired  
12 pursuant to chapter 321J, the court may notify the department  
13 of transportation that, as a participant in the program, the  
14 person is eligible for a temporary restricted license pursuant  
15 to section 321J.20.

16 3. A court may condition any bond or pretrial release  
17 otherwise authorized by law for a person charged with an  
18 eligible offense upon participation in the program and payment  
19 of the fees established pursuant to section 901D.4.

20 4. A court may condition a suspended sentence or probation  
21 otherwise authorized by law for a person convicted of an  
22 eligible offense upon participation in the program and payment  
23 of the fees established pursuant to section 901D.4.

24 5. The board of parole, the department of corrections, or  
25 a parole officer may condition parole otherwise authorized  
26 by law for a person convicted of an eligible offense upon  
27 participation in the program and payment of the fees  
28 established pursuant to section 901D.4.

29 **Sec. 8. NEW SECTION. 901D.7 Placement and enrollment.**

30 1. Subject to sections 901D.3 and 901D.6, a participant  
31 may be placed in the program as a condition of bond, pretrial  
32 release, sentence, probation, parole, or a temporary  
33 restricted license. However, a person who has been required to  
34 participate in the program by a court or governmental entity  
35 and whose driver's license is suspended or revoked shall not

1 begin participation in the program or be subject to the testing  
2 required by the program until the person is eligible for a  
3 temporary restricted license under applicable law.

4     2. An order or directive placing a participant in the  
5 program shall include the type of testing required to be  
6 administered in the program and the length of time that the  
7 participant is required to remain in the program. The person  
8 issuing the order or directive shall send a copy of the order  
9 or directive to the law enforcement agency of the participating  
10 jurisdiction.

11     3. Upon receipt of a copy of an order or directive,  
12 a representative of the law enforcement agency of the  
13 participating jurisdiction shall enroll a participant in the  
14 program prior to testing.

15     4. At the time of enrollment, a representative of the law  
16 enforcement agency of the participating jurisdiction shall  
17 enter the participant's information into the data management  
18 system described in section 901D.5. The representative of  
19 the agency shall provide the participant with the appropriate  
20 materials required by the program, inform the participant that  
21 the participant's information may be shared for law enforcement  
22 and reporting purposes, and provide the participant with  
23 information related to the required testing, procedures, and  
24 fees.

25     5. The participant shall sign a form stating that the  
26 participant understands the program requirements and releases  
27 the participant's information for law enforcement and reporting  
28 purposes.

29     6. A participant shall report to the program for testing for  
30 the length of time ordered by the court, the board of parole,  
31 the department of corrections, or a parole officer.

32     Sec. 9. NEW SECTION. 901D.8 Collection, distribution, and  
33 use of fees.

34     1. The law enforcement agency of a participating  
35 jurisdiction shall do all of the following:

1     *a.* Establish and maintain a sobriety program account.

2     *b.* Collect the participant, enrollment, and testing fees  
3 established pursuant to section 901D.4 and deposit the fees  
4 and any other funds received for the program into the sobriety  
5 program account for administration of the program.

6     2. A participant shall pay all fees directly to the law  
7 enforcement agency of the participating jurisdiction.

8     3. *a.* The law enforcement agency shall distribute a  
9 portion of the fees to any participating third-party designee  
10 in accordance with the agreement between the agency and the  
11 third-party designee.

12    *b.* The remainder of the fees collected shall be deposited in  
13 the sobriety program account, and shall be used only for the  
14 purposes of administering and operating the program.

15    Sec. 10. NEW SECTION. 901D.9 **Noncompliance.**

16    1. An allegation that a participant failed a test, refused  
17 to submit to a test, or failed to appear for testing shall  
18 be communicated ex parte by the participating jurisdiction,  
19 a law enforcement agency of the participating jurisdiction,  
20 or the participating jurisdiction's third-party designee to a  
21 magistrate as soon as practicable. A magistrate who receives  
22 such a communication may order the participant's immediate  
23 incarceration pending a hearing on the allegation but lasting  
24 no longer than twenty-four hours after the issuance of the  
25 order, or if the participant failed to appear for testing as  
26 scheduled, the magistrate may issue a warrant for the arrest of  
27 the participant for a violation of the terms of bond, pretrial  
28 release, sentence, probation, or parole, as applicable.

29    2. The magistrate may notify the department of  
30 transportation of the participant's noncompliance and direct  
31 the department to withdraw any temporary restricted license  
32 issued to the participant and reinstate the remainder of any  
33 applicable license suspension or revocation period provided by  
34 law.

35    Sec. 11. NEW SECTION. 901D.10 **Report.**

1 The department, in consultation with the judicial branch  
2 and the department of transportation, shall by December 1,  
3 2021, submit a report to the general assembly detailing the  
4 effectiveness of the program established pursuant to this  
5 chapter and shall make recommendations concerning the continued  
6 implementation of the program or the elimination of the  
7 program.

8 DIVISION II

9 OPERATING WHILE INTOXICATED

10 Sec. 12. Section 321.12, subsection 4, Code 2017, is amended  
11 to read as follows:

12 4. The director shall not destroy any operating records  
13 pertaining to arrests or convictions for operating while  
14 intoxicated, in violation of [section 321J.2](#), or operating  
15 records pertaining to revocations for violations of section  
16 321J.2A, except that a conviction or revocation under section  
17 321J.2 or [321J.2A](#) that is not subject to [49 C.F.R. pt. 383](#)  
18 shall be deleted from the operating records ~~twelve~~ twenty-five  
19 years after the date of conviction or the effective date of  
20 revocation. Convictions or revocations that are retained in  
21 the operating records for more than ~~twelve~~ twenty-five years  
22 under [this subsection](#) shall be considered only for purposes of  
23 disqualification actions under [49 C.F.R. pt. 383](#).

24 Sec. 13. Section 321.189, subsection 2, Code 2017, is  
25 amended by adding the following new paragraph:

26 NEW PARAGRAPH. *0c.* If the licensee's operating record  
27 indicates a conviction or revocation for a violation of section  
28 321J.2 or 321J.2A, the driver's license shall contain an  
29 operating-while-intoxicated emblem designed by the department  
30 that shall appear prominently on the back of the license.

31 Sec. 14. Section 321.210D, Code 2017, is amended to read as  
32 follows:

33 **321.210D Vehicular homicide or serious injury suspension**  
34 **— termination upon revocation of license — reopening of**  
35 **suspension.**

1     1. If a trial information or indictment is filed charging a  
2 person with the offense of homicide by vehicle under section  
3 707.6A, subsection 1 or 2, or with an offense under section  
4 707.6A, subsection 4, paragraph "a", the clerk of the district  
5 court shall, upon the filing of the information or indictment,  
6 forward notice to the department including the name and address  
7 of the party charged, the registration number of the vehicle  
8 involved, if known, the nature of the offense, and the date of  
9 the filing of the indictment or information.

10    2. Upon receiving notice from the clerk of the district  
11 court that an indictment or information has been filed  
12 charging an operator with ~~homicide by vehicle under section~~  
13 ~~707.6A, subsection 1 or 2~~ an offense listed in subsection  
14 1, the department shall notify the person that the person's  
15 driver's license will be suspended effective ten days from  
16 the date of issuance of the notice. The department shall  
17 adopt rules relating to the suspension of the license of an  
18 operator pursuant to **this section** which shall include, but are  
19 not limited to, procedures for the surrender of the person's  
20 license to the department upon the effective date of the  
21 suspension.

22    3. If a person whose driver's license has been suspended  
23 pursuant to **this section** is not convicted of the charge of  
24 homicide or serious injury by vehicle under section 707.6A,  
25 ~~subsection 1 or 2,~~ upon record entry of disposition of the  
26 charge, the clerk of the district court shall forward a notice  
27 including the name and address of the party charged, the  
28 registration number of the vehicle involved, the nature of the  
29 offense charged by indictment or information, the date of the  
30 filing of the indictment or information, and of the disposition  
31 of the charge to the department. Upon receipt of the notice  
32 from the clerk, the department shall automatically rescind the  
33 suspension and reinstate the person's driver's license without  
34 payment of any charge or penalty.

35    4. Upon receiving a record of conviction under section

1 321.206, for a violation of section 707.6A, subsection 1 or  
 2 2, or section 707.6A, subsection 4, paragraph "a", and upon  
 3 revocation of the person's license or operating privileges  
 4 under section 321.209, the suspension under subsection 2 shall  
 5 automatically terminate in favor of the revocation.

6 Sec. 15. Section 321J.2, subsection 3, paragraph d, Code  
 7 2017, is amended to read as follows:

8 *d.* Revocation of the person's driver's license for a  
 9 minimum period of one ~~hundred eighty days~~ year up to a maximum  
 10 revocation period of ~~one year~~ two years, pursuant to section  
 11 321J.4, subsection 1, section 321J.9, or section 321J.12,  
 12 ~~subsection 2. If a revocation occurs due to test refusal~~  
 13 ~~under section 321J.9, the defendant shall be ineligible for a~~  
 14 ~~temporary restricted license for a minimum period of ninety~~  
 15 ~~days.~~

16 ~~{1} A defendant whose alcohol concentration is .08 or more~~  
 17 ~~but not more than .10 shall not be eligible for any temporary~~  
 18 ~~restricted license for at least thirty days if a test was~~  
 19 ~~obtained and an accident resulting in personal injury or~~  
 20 ~~property damage occurred. The department shall require the~~  
 21 ~~defendant to install an ignition interlock device of a type~~  
 22 ~~approved by the commissioner of public safety on all vehicles~~  
 23 ~~owned or operated by the defendant if the defendant seeks a~~  
 24 ~~temporary restricted license. There shall be no such period of~~  
 25 ~~ineligibility if no such accident occurred, and the defendant~~  
 26 ~~shall not be required to install an ignition interlock device.~~

27 ~~{2} A defendant whose alcohol concentration is more than .10~~  
 28 ~~shall not be eligible for any temporary restricted license for~~  
 29 ~~at least thirty days if a test was obtained, and an accident~~  
 30 ~~resulting in personal injury or property damage occurred or the~~  
 31 ~~defendant's alcohol concentration exceeded .15. There shall be~~  
 32 ~~no such period of ineligibility if no such accident occurred~~  
 33 ~~and the defendant's alcohol concentration did not exceed .15.~~  
 34 ~~In either case, where a defendant's alcohol concentration is~~  
 35 ~~more than .10, the department shall require the defendant to~~

1 ~~install an ignition interlock device of a type approved by the~~  
2 ~~commissioner of public safety on all vehicles owned or operated~~  
3 ~~by the defendant if the defendant seeks a temporary restricted~~  
4 ~~license.~~

5 Sec. 16. Section 321J.2, subsection 4, paragraph c, Code  
6 2017, is amended to read as follows:

7 c. Revocation of the defendant's driver's license for a  
8 period of ~~one year~~ two years, if a revocation occurs pursuant  
9 to section 321J.12, subsection 1. If a revocation occurs due  
10 to test refusal under section 321J.9, or pursuant to section  
11 321J.4, subsection 2, the defendant's license shall be revoked  
12 for a period of ~~two~~ four years.

13 Sec. 17. Section 321J.2, subsection 5, paragraph c, Code  
14 2017, is amended to read as follows:

15 c. Revocation Permanent revocation of the person's driver's  
16 license ~~for a period of six years~~ pursuant to section 321J.4,  
17 subsection 4.

18 Sec. 18. Section 321J.4, subsections 1 and 2, Code 2017, are  
19 amended to read as follows:

20 1. If a defendant is convicted of a violation of section  
21 321J.2 and the defendant's driver's license or nonresident  
22 operating privilege has not been revoked under section 321J.9  
23 or 321J.12 for the occurrence from which the arrest arose, the  
24 department shall revoke the defendant's driver's license or  
25 nonresident operating privilege for one ~~hundred eighty days~~  
26 year if the defendant submitted to chemical testing and has had  
27 no previous conviction or revocation under this chapter and  
28 shall revoke the defendant's driver's license or nonresident  
29 operating privilege for ~~one year~~ two years if the defendant  
30 refused to submit to chemical testing and has had no previous  
31 conviction or revocation under this chapter. The defendant  
32 shall not be eligible for any temporary restricted license  
33 for at least ninety days if a test was refused under section  
34 321J.9.

35 a. A defendant whose alcohol concentration is .08 or

1 ~~more but not more than .10~~ shall not be eligible for any  
2 temporary restricted license for at least thirty days if  
3 a test was obtained and an accident resulting in personal  
4 injury or property damage occurred or the defendant's alcohol  
5 concentration exceeded .15. ~~The~~ There shall be no such  
6 period of ineligibility if no such accident occurred and the  
7 defendant's alcohol concentration did not exceed .15.

8 b. Upon revocation, the department shall require the  
9 defendant to install an ignition interlock device of a type  
10 approved by the commissioner of public safety on all vehicles  
11 owned or operated by the defendant ~~if the defendant seeks a~~  
12 ~~temporary restricted license. There shall be no such period of~~  
13 ~~ineligibility if no such accident occurred, and the defendant~~  
14 ~~shall not be required to install an ignition interlock device.~~

15 ~~b. A defendant whose alcohol concentration is more than .10~~  
16 ~~shall not be eligible for any temporary restricted license for~~  
17 ~~at least thirty days if a test was obtained and an accident~~  
18 ~~resulting in personal injury or property damage occurred or the~~  
19 ~~defendant's alcohol concentration exceeded .15. There shall be~~  
20 ~~no such period of ineligibility if no such accident occurred~~  
21 ~~and the defendant's alcohol concentration did not exceed .15.~~  
22 ~~In either case, where a defendant's alcohol concentration is~~  
23 ~~more than .10, the department shall require the defendant to~~  
24 ~~install an ignition interlock device of a type approved by the~~  
25 ~~commissioner of public safety on all vehicles owned or operated~~  
26 ~~by the defendant if the defendant seeks a temporary restricted~~  
27 ~~license.~~

28 c. If the defendant is under the age of twenty-one, the  
29 defendant shall not be eligible for a temporary restricted  
30 license for at least sixty days after the effective date of  
31 revocation.

32 2. If a defendant is convicted of a violation of section  
33 321J.2, and the defendant's driver's license or nonresident  
34 operating privilege has not already been revoked under section  
35 321J.9 or [321J.12](#) for the occurrence from which the arrest



1 arose, the department shall revoke the defendant's driver's  
 2 license or nonresident operating privilege for ~~one year~~ two  
 3 years if the defendant submitted to chemical testing and has  
 4 had a previous conviction or revocation under this chapter and  
 5 shall revoke the defendant's driver's license or nonresident  
 6 operating privilege for ~~two~~ four years if the defendant refused  
 7 to submit to chemical testing and has had a previous revocation  
 8 under this chapter. The defendant shall not be eligible for  
 9 any temporary restricted license for forty-five days after the  
 10 effective date of revocation if the defendant submitted to  
 11 chemical testing and shall not be eligible for any temporary  
 12 restricted license for ninety days after the effective date  
 13 of revocation if the defendant refused chemical testing. The  
 14 temporary restricted license shall be issued in accordance  
 15 with section 321J.20, subsection 2. The Upon revocation, the  
 16 department shall require the defendant to install an ignition  
 17 interlock device of a type approved by the commissioner  
 18 of public safety on all vehicles owned or operated by the  
 19 defendant ~~if the defendant seeks a temporary restricted license~~  
 20 ~~at the end of the minimum period of ineligibility~~. A temporary  
 21 restricted license shall not be granted by the department until  
 22 the defendant installs the ignition interlock device.

23 Sec. 19. Section 321J.4, subsection 3, paragraphs a and b,  
 24 Code 2017, are amended to read as follows:

25 a. A defendant whose alcohol concentration is .08 or  
 26 more ~~but not more than .10~~ shall not be eligible for any  
 27 temporary restricted license for at least thirty days if  
 28 a test was obtained and an accident resulting in personal  
 29 injury or property damage occurred or the defendant's alcohol  
 30 concentration exceeded .15. ~~The~~ There shall be no such  
 31 period of ineligibility if no such accident occurred and the  
 32 defendant's alcohol concentration did not exceed .15. Upon  
 33 revocation, the department shall require the defendant to  
 34 install an ignition interlock device of a type approved by the  
 35 commissioner of public safety on all vehicles owned or operated

1 by the defendant if the defendant seeks a temporary restricted  
2 license. There shall be no such period of ineligibility if no  
3 such accident occurred, and the defendant shall not be required  
4 to install an ignition interlock device.

5 ~~b. A defendant whose alcohol concentration is more than .10~~  
6 ~~shall not be eligible for any temporary restricted license for~~  
7 ~~at least thirty days if a test was obtained and an accident~~  
8 ~~resulting in personal injury or property damage occurred or the~~  
9 ~~defendant's alcohol concentration exceeded .15. There shall be~~  
10 ~~no such period of ineligibility if no such accident occurred~~  
11 ~~and the defendant's alcohol concentration did not exceed .15.~~  
12 ~~In either case, where a defendant's alcohol concentration is~~  
13 ~~more than .10, the department shall require the defendant to~~  
14 ~~install an ignition interlock device of a type approved by the~~  
15 ~~commissioner of public safety on all vehicles owned or operated~~  
16 ~~by the defendant if the defendant seeks a temporary restricted~~  
17 ~~license.~~

18 Sec. 20. Section 321J.4, subsections 4, 5, and 6, Code 2017,  
19 are amended to read as follows:

20 4. Upon a plea or verdict of guilty of a third or subsequent  
21 violation of [section 321J.2](#), the department shall revoke the  
22 defendant's driver's license or nonresident operating privilege  
23 ~~for a period of six years permanently.~~ The defendant shall not  
24 be eligible for a any temporary restricted license ~~for one year~~  
25 ~~after the effective date of the revocation.~~ The department  
26 ~~shall require the defendant to install an ignition interlock~~  
27 ~~device of a type approved by the commissioner of public safety~~  
28 ~~on all vehicles owned or operated by the defendant if the~~  
29 ~~defendant seeks a temporary restricted license at the end of~~  
30 ~~the minimum period of ineligibility. A temporary restricted~~  
31 ~~license shall not be granted by the department until the~~  
32 ~~defendant installs the ignition interlock device.~~

33 5. Upon a plea or verdict of guilty of a violation of  
34 section 321J.2 which involved a personal injury, the court  
35 shall determine in open court, from consideration of the

1 information in the file and any other evidence the parties  
 2 may submit, whether a serious injury, as defined in section  
 3 702.18, was sustained by any person other than the defendant  
 4 and, if so, whether the defendant's conduct in violation of  
 5 section 321J.2 caused the serious injury. If the court so  
 6 determines, the court shall order the department to revoke the  
 7 defendant's driver's license or nonresident operating privilege  
 8 ~~for a period of one year in addition to any other period of~~  
 9 ~~suspension or revocation permanently~~. The defendant shall not  
 10 be eligible for any temporary restricted license until the  
 11 ~~minimum period of ineligibility has expired under this section~~  
 12 ~~or section 321J.9, 321J.12, or 321J.20~~. The defendant shall  
 13 surrender to the court any Iowa license or permit and the court  
 14 shall forward ~~it~~ the license or permit to the department with a  
 15 copy of the order for revocation.

16 6. Upon a plea or verdict of guilty of a violation of  
 17 section 321J.2 which involved a death, the court shall  
 18 determine in open court, from consideration of the information  
 19 in the file and any other evidence the parties may submit,  
 20 whether a death occurred and, if so, whether the defendant's  
 21 conduct in violation of section 321J.2 caused the death. If  
 22 the court so determines, the court shall order the department  
 23 to revoke the defendant's driver's license or nonresident  
 24 operating privilege ~~for a period of six years permanently~~. The  
 25 defendant shall not be eligible for any temporary restricted  
 26 license ~~for at least two years after the revocation~~. The  
 27 defendant shall surrender to the court any Iowa license or  
 28 permit and the court shall forward ~~it~~ the license or permit to  
 29 the department with a copy of the order for revocation.

30 Sec. 21. Section 321J.4, subsection 8, paragraphs a and c,  
 31 Code 2017, are amended to read as follows:

32 a. On a conviction for or as a condition of a deferred  
 33 judgment for a violation of section 321J.2, the court ~~may~~ shall  
 34 order the defendant to install ignition interlock devices  
 35 of a type approved by the commissioner of public safety on

1 all motor vehicles owned or operated by the defendant which,  
 2 without tampering or the intervention of another person, would  
 3 prevent the defendant from operating the motor vehicle with an  
 4 alcohol concentration greater than a level set by rule of the  
 5 commissioner of public safety.

6 c. The order to install ignition interlock devices shall  
 7 remain in effect for ~~a period of time as determined by the~~  
 8 ~~court which shall not exceed the maximum term of imprisonment~~  
 9 ~~which the court could have imposed according to the nature of~~  
 10 ~~the violation~~ the period of time required by section 321.20A.  
 11 While the order is in effect, the defendant shall not operate  
 12 a motor vehicle which does not have an approved ignition  
 13 interlock device installed.

14 Sec. 22. Section 321J.4B, subsection 1, paragraph a, Code  
 15 2017, is amended to read as follows:

16 a. "Immobilized" means the installation of a device in a  
 17 motor vehicle that completely prevents a motor vehicle from  
 18 being operated, ~~or the installation of an ignition interlock~~  
 19 ~~device of a type approved by the commissioner of public safety.~~

20 Sec. 23. Section 321J.4B, subsection 4, Code 2017, is  
 21 amended to read as follows:

22 4. An owner of a motor vehicle impounded or immobilized  
 23 under this section, who knows of, should have known of,  
 24 or gives consent to the operation of, the motor vehicle in  
 25 violation of subsection 2, paragraph "a", subparagraph (2),  
 26 shall be considered to be all of the following:

27 a. Guilty of a simple serious misdemeanor, ~~and.~~

28 b. Jointly and severally liable for any damages caused  
 29 by the person who operated the motor vehicle, subject to the  
 30 provisions of chapter 668.

31 Sec. 24. Section 321J.4B, subsection 5, paragraph d, Code  
 32 2017, is amended to read as follows:

33 d. The period of impoundment or immobilization of a motor  
 34 vehicle under this section shall be the period of license  
 35 revocation imposed upon the person convicted of the offense or

1 ~~one hundred eighty days~~ year, whichever period is longer. The  
 2 impoundment or immobilization period shall commence on the day  
 3 that the vehicle is first impounded or immobilized.

4 Sec. 25. Section 321J.4B, subsection 6, Code 2017, is  
 5 amended to read as follows:

6 6. Upon conviction of the defendant for a first violation  
 7 of subsection 2, paragraph "a", subparagraph (2), where the  
 8 defendant's driver's license was revoked as a result of a  
 9 second or subsequent violation of section 321J.2, or a second  
 10 or subsequent violation of subsection 2, paragraph "a",  
 11 subparagraph (2), the court shall order, if the convicted  
 12 person defendant is the owner of the motor vehicle used in the  
 13 commission of the offense, that that motor vehicle be seized  
 14 and forfeited to the state pursuant to chapters 809 and 809A.

15 Sec. 26. Section 321J.5, subsection 2, Code 2017, is amended  
 16 to read as follows:

17 2. The results of this preliminary screening test may be  
 18 used for the purpose of deciding whether an arrest should be  
 19 made or whether to request a chemical test authorized in this  
 20 chapter, but shall not be used in any court action except to  
 21 prove that a chemical test was properly requested of a person  
 22 pursuant to this chapter. However, the results of a breath  
 23 test administered after a preliminary screening test pursuant  
 24 to section 321J.6, subsection 2, by a certified operator using  
 25 a portable breath testing instrument intended to determine  
 26 alcohol concentration, and using methods approved by the  
 27 commissioner of public safety pursuant to section 321J.15, may  
 28 be used as evidence in any court action.

29 Sec. 27. Section 321J.9, subsections 1 and 2, Code 2017, are  
 30 amended to read as follows:

31 1. If a person refuses to submit to the chemical testing, a  
 32 test shall not be given, but the department, upon the receipt  
 33 of the peace officer's certification, subject to penalty for  
 34 perjury, that the officer had reasonable grounds to believe the  
 35 person to have been operating a motor vehicle in violation of

1 section 321J.2 or [321J.2A](#), that specified conditions existed  
 2 for chemical testing pursuant to [section 321J.6](#), and that the  
 3 person refused to submit to the chemical testing, shall revoke  
 4 the person's driver's license and any nonresident operating  
 5 privilege for the following periods of time:

6     a. ~~One year~~ Two years if the person has no previous  
 7 revocation under [this chapter](#); and

8     b. ~~Two~~ Four years if the person has had a previous  
 9 revocation under [this chapter](#).

10     2. a. A person whose driver's license or nonresident  
 11 operating privileges are revoked under [subsection 1](#) shall not  
 12 be eligible for a temporary restricted license for at least  
 13 ninety days after the effective date of the revocation. A  
 14 temporary restricted license issued to a person whose driver's  
 15 license or nonresident driving privilege has been revoked under  
 16 subsection 1, paragraph "b", shall be issued in accordance with  
 17 section 321J.20, subsection 2.

18     b. The department shall require the defendant to install  
 19 an ignition interlock device of a type approved by the  
 20 commissioner of public safety on all vehicles owned or operated  
 21 by the defendant ~~if the defendant seeks a temporary restricted~~  
 22 ~~license at the end of the minimum period of ineligibility upon~~  
 23 ~~revocation of the defendant's driver's license unless the~~  
 24 ~~defendant's driver's license or nonresident operating privilege~~  
 25 ~~has been permanently revoked under this chapter.~~ A temporary  
 26 restricted license shall not be granted by the department until  
 27 the defendant installs the ignition interlock device.

28     Sec. 28. Section 321J.10, subsection 1, Code 2017, is  
 29 amended to read as follows:

30     1. Refusal to consent to a test under [section 321J.6](#) does  
 31 not prohibit the withdrawal of a specimen for chemical testing  
 32 pursuant to a search warrant issued in the investigation of  
 33 a suspected violation of [section 707.5](#) or ~~707.6A~~ [321J.2](#) or  
 34 [321J.2A](#) if ~~all of the following grounds exist:~~

35     a. ~~A traffic accident has resulted in a death or personal~~

1 ~~injury reasonably likely to cause death.~~

2 ~~b. There~~ there are reasonable grounds to believe that ~~one or~~  
3 ~~more of the persons whose driving may have been the proximate~~  
4 ~~cause of the accident~~ the person was violating section 321J.2  
5 or 321J.2A at the time of the ~~accident~~ suspected violation.

6 Sec. 29. Section 321J.10, subsection 3, paragraph c, Code  
7 2017, is amended to read as follows:

8 c. The oral application testimony shall set forth facts and  
9 information tending to establish the existence of the grounds  
10 for the warrant and shall describe with a reasonable degree of  
11 specificity the person ~~or persons~~ whose driving is believed to  
12 have been ~~the proximate cause of the accident and from whom a~~  
13 ~~specimen is to be withdrawn~~ in violation of section 321J.2 or  
14 321J.2A and the location where the withdrawal of the specimen  
15 ~~or specimens~~ is to take place.

16 Sec. 30. Section 321J.12, subsections 1 and 2, Code 2017,  
17 are amended to read as follows:

18 1. Upon certification, subject to penalty for perjury, by  
19 the peace officer that there existed reasonable grounds to  
20 believe that the person had been operating a motor vehicle in  
21 violation of section 321J.2, that there existed one or more  
22 of the necessary conditions for chemical testing described in  
23 section 321J.6, subsection 1, and that the person submitted to  
24 chemical testing and the test results indicated the presence  
25 of a controlled substance or other drug, or an alcohol  
26 concentration equal to or in excess of the level prohibited by  
27 section 321J.2, or a combination of alcohol and another drug in  
28 violation of section 321J.2, the department shall revoke the  
29 person's driver's license or nonresident operating privilege  
30 for the following periods of time:

31 a. ~~One hundred eighty days~~ year if the person has had no  
32 revocation under this chapter.

33 b. ~~One year~~ Two years if the person has had a previous  
34 revocation under this chapter.

35 2. a. A person whose driver's license or nonresident

1 operating privileges have been revoked under subsection 1,  
2 paragraph "a", whose alcohol concentration is .08 or more but  
3 ~~not more than .10~~ shall not be eligible for any temporary  
4 restricted license for at least thirty days after the effective  
5 date of the revocation if a test was obtained and an accident  
6 resulting in personal injury or property damage occurred or  
7 the defendant's alcohol concentration exceeded .15. ~~The There~~  
8 shall be no such period of ineligibility if no such accident  
9 occurred and the defendant's alcohol concentration did not  
10 exceed .15.

11 b. Upon revocation, the department shall require the  
12 defendant to install an ignition interlock device of a type  
13 approved by the commissioner of public safety on all vehicles  
14 owned or operated by the defendant if the defendant seeks a  
15 temporary license unless the defendant's driver's license  
16 or nonresident operating privilege has been permanently  
17 revoked under this chapter. ~~There shall be no such period of~~  
18 ~~ineligibility if no such accident occurred, and the defendant~~  
19 ~~shall not be required to install an ignition interlock device.~~

20 ~~b. A defendant whose alcohol concentration is more than .10~~  
21 ~~shall not be eligible for any temporary restricted license for~~  
22 ~~at least thirty days if a test was obtained and an accident~~  
23 ~~resulting in personal injury or property damage occurred or the~~  
24 ~~defendant's alcohol concentration exceeded .15. There shall be~~  
25 ~~no such period of ineligibility if no such accident occurred~~  
26 ~~and the defendant's alcohol concentration did not exceed .15.~~  
27 ~~In either case, where a defendant's alcohol concentration is~~  
28 ~~more than .10, the department shall require the defendant to~~  
29 ~~install an ignition interlock device of a type approved by the~~  
30 ~~commissioner of public safety on all vehicles owned or operated~~  
31 ~~by the defendant if the defendant seeks a temporary restricted~~  
32 ~~license.~~

33 c. If the person is under the age of twenty-one, the person  
34 shall not be eligible for a temporary restricted license for at  
35 least sixty days after the effective date of the revocation.



1     *d.* A person whose license or privileges have been revoked  
2 under [subsection 1](#), paragraph “b”, ~~for one year~~ shall not be  
3 eligible for any temporary restricted license for forty-five  
4 days after the effective date of the revocation, and upon  
5 revocation the department shall require the person to install  
6 an ignition interlock device of a type approved by the  
7 commissioner of public safety on all vehicles owned or operated  
8 by the defendant ~~if the defendant seeks a temporary restricted~~  
9 ~~license at the end of the minimum period of ineligibility~~  
10 unless the defendant’s driver’s license or nonresident  
11 operating privilege has been permanently revoked under this  
12 chapter. The temporary restricted license shall be issued in  
13 accordance with [section 321J.20, subsection 2](#). A temporary  
14 restricted license shall not be granted by the department until  
15 the defendant installs the ignition interlock device.

16     Sec. 31. Section 321J.17, subsection 3, Code 2017, is  
17 amended to read as follows:

18     3. The department shall also require certification of  
19 installation of an ignition interlock device of a type approved  
20 by the commissioner of public safety on all motor vehicles  
21 owned or operated by any person seeking reinstatement following  
22 a second or subsequent revocation under [section 321J.4](#),  
23 [321J.9](#), or [321J.12](#). The requirement for the installation of  
24 an approved ignition interlock device shall be for ~~one year~~  
25 ~~from the date of reinstatement unless a longer time period is~~  
26 ~~required by statute~~ the period of time required under section  
27 321J.20A. ~~The one-year period a person is required to maintain~~  
28 ~~an ignition interlock device under [this subsection](#) shall be~~  
29 ~~reduced by any period of time the person held a valid temporary~~  
30 ~~restricted license during the period of the revocation for~~  
31 ~~the occurrence from which the arrest arose.~~ The person shall  
32 not operate any motor vehicle which is not equipped with an  
33 approved ignition interlock device during the period in which  
34 an ignition interlock device must be maintained, and the  
35 department shall not grant reinstatement unless the person

1 certifies installation of an ignition interlock device as  
2 required in [this subsection](#).

3     Sec. 32. Section 321J.20, subsection 1, paragraph a,  
4 unnumbered paragraph 1, Code 2017, is amended to read as  
5 follows:

6     The department may, on application, issue a temporary  
7 restricted license to a person whose noncommercial driver's  
8 license is revoked under [this chapter](#) ~~allowing~~ unless the  
9 person's noncommercial driver's license has been permanently  
10 revoked. A temporary restricted license issued under this  
11 subsection may allow the person to drive to and from the  
12 person's home and specified places at specified times which can  
13 be verified by the department and which are required by the  
14 person's full-time or part-time employment, continuing health  
15 care or the continuing health care of another who is dependent  
16 upon the person, continuing education while enrolled in an  
17 educational institution on a part-time or full-time basis and  
18 while pursuing a course of study leading to a diploma, degree,  
19 or other certification of successful educational completion,  
20 substance abuse treatment, court-ordered community service  
21 responsibilities, ~~and~~ appointments with the person's parole or  
22 probation officer, ~~and~~ participation in a program established  
23 pursuant to chapter 901D, if the person's driver's license has  
24 not been revoked previously under [section 321J.4](#), [321J.9](#), or  
25 [321J.12](#) and if any of the following apply:

26     Sec. 33. Section 321J.20, subsection 1, paragraphs b and d,  
27 Code 2017, are amended to read as follows:

28     **b.** A temporary restricted license may be issued under this  
29 subsection if the person's noncommercial driver's license is  
30 revoked ~~for two years~~ under [section 321J.4](#), [subsection 2](#), or  
31 [section 321J.9](#), subsection 1, paragraph "b", and the first three  
32 hundred sixty-five days of the revocation have expired.

33     **d.** Following the applicable minimum period of ineligibility,  
34 a temporary restricted license under [this subsection](#) shall not  
35 be issued ~~until~~ unless the applicant ~~installs~~ has installed

1 an ignition interlock device of a type approved by the  
 2 commissioner of public safety on all motor vehicles owned or  
 3 operated by the applicant in accordance with [section 321J.2](#),  
 4 [321J.4](#), [321J.9](#), or [321J.12](#). Installation of an ignition  
 5 interlock device under [this subsection](#) shall be required for  
 6 the period of time ~~for which the temporary restricted license~~  
 7 ~~is issued and for such additional period of time following~~  
 8 ~~reinstatement as is required under section 321J.17, subsection~~  
 9 3 provided under section 321J.20A.

10 Sec. 34. Section 321J.20, subsections 2 and 3, Code 2017,  
 11 are amended to read as follows:

12 2. *a.* Notwithstanding [section 321.560](#), the department may,  
 13 on application, and upon the expiration of the minimum period  
 14 of ineligibility for a temporary restricted license provided  
 15 for under [section 321.560](#), [321J.4](#), [321J.9](#), or [321J.12](#), issue a  
 16 temporary restricted license to a person whose noncommercial  
 17 driver's license has either been revoked under [this chapter](#), or  
 18 revoked or suspended under [chapter 321](#) solely for violations  
 19 of [this chapter](#), or who has been determined to be a habitual  
 20 offender under [chapter 321](#) based solely on violations of this  
 21 chapter or on violations listed in [section 321.560](#), subsection  
 22 1, paragraph "b", and who is not eligible for a temporary  
 23 restricted license under [subsection 1](#). However, the department  
 24 ~~may~~ shall not issue a temporary restricted license under  
 25 this subsection for a violation of [section 321J.2A](#), ~~or~~ to a  
 26 person under the age of twenty-one whose license is revoked  
 27 under [section 321J.4](#), [321J.9](#), or [321J.12](#), or to a person whose  
 28 noncommercial driver's license has been permanently revoked  
 29 under this chapter. A temporary restricted license issued  
 30 under [this subsection](#) may allow the person to drive to and  
 31 from the person's home and specified places at specified times  
 32 which can be verified by the department and which are required  
 33 by the person's full-time or part-time employment; continuing  
 34 education while enrolled in an educational institution on a  
 35 part-time or full-time basis and while pursuing a course of

1 study leading to a diploma, degree, or other certification  
 2 of successful educational completion; ~~or~~ substance abuse  
 3 treatment; or participation in a program established pursuant  
 4 to chapter 901D.

5     b. A temporary restricted license issued under this  
 6 subsection shall not be issued ~~until~~ unless the applicant  
 7 ~~installs~~ has installed an approved ignition interlock device  
 8 on all motor vehicles owned or operated by the applicant.  
 9 Installation of an ignition interlock device under this  
 10 subsection shall be required for the period of time ~~for~~  
 11 ~~which the temporary restricted license is issued, and for~~  
 12 ~~such additional period of time following reinstatement as is~~  
 13 ~~required under~~ section 321J.17, subsection 3 provided under  
 14 section 321J.20A. However, a person whose driver's license or  
 15 nonresident operating privilege has been revoked under section  
 16 321J.21 may apply to the department for a temporary restricted  
 17 license without the requirement of an ignition interlock device  
 18 if at least ~~twelve~~ twenty-five years have elapsed since the end  
 19 of the underlying revocation period for a first violation of  
 20 section 321J.2.

21     3. If a person required to install an ignition interlock  
 22 device or participate in a program established pursuant to  
 23 chapter 901D operates a motor vehicle which does not have an  
 24 approved ignition interlock device or while not in compliance  
 25 with the program, or if the person tampers with or circumvents  
 26 an ignition interlock device, in addition to other penalties  
 27 provided, the person's temporary restricted license shall be  
 28 revoked.

29     Sec. 35. Section 321J.20, Code 2017, is amended by adding  
 30 the following new subsection:

31     NEW SUBSECTION. 10. Notwithstanding any other provision of  
 32 law to the contrary, in any circumstance in which this chapter  
 33 requires the installation of an ignition interlock device in  
 34 all vehicles owned or operated by a person as a condition of  
 35 the person's license or privilege to operate noncommercial

1 motor vehicles, the department shall require the person to  
 2 participate in and be in compliance with a sobriety and drug  
 3 monitoring program established pursuant to chapter 901D if the  
 4 person's offense under this chapter qualifies as an eligible  
 5 offense as defined in section 901D.2, and the person's offense  
 6 occurred in a participating jurisdiction, as defined in section  
 7 901D.2. The department, in consultation with the department  
 8 of public safety, may adopt rules for issuing and accepting a  
 9 certification of participation in and compliance with a program  
 10 established pursuant to chapter 901D. This subsection shall be  
 11 construed and implemented to comply with 23 U.S.C. §164(a), as  
 12 amended by the federal Fixing America's Surface Transportation  
 13 Act, Pub. L. No. 114-94, §1414, and shall not apply if such  
 14 application results in a finding of noncompliance with 23  
 15 U.S.C. §164 that results or will result in a reservation  
 16 or transfer of funds pursuant to 23 U.S.C. §164(b). This  
 17 subsection shall not authorize the operation of a motor vehicle  
 18 for any purpose not otherwise authorized by this chapter.

19 Sec. 36. NEW SECTION. 321J.20A Ignition interlock devices  
 20 — duration of requirements — indigent user fund.

21 1. a. An ignition interlock device installed in a motor  
 22 vehicle as required by this chapter shall be installed in the  
 23 vehicle for as long as the defendant is the owner or operator  
 24 of the vehicle, except as provided in this subsection.

25 b. If an ignition interlock device was installed in a  
 26 motor vehicle as a result of the defendant's first offense or  
 27 revocation under this chapter, the device shall be uninstalled  
 28 after the later of the following:

29 (1) Two years after the date the defendant's driver's  
 30 license revocation period ends.

31 (2) One hundred eighty days after the date the defendant  
 32 last failed a test or retest by the device because the  
 33 defendant's alcohol concentration exceeded the limit  
 34 established under 661 IAC 158.6.

35 (3) One hundred eighty days after the date the defendant

1 last failed to maintain the device as required under 661 IAC  
2 ch. 158.

3     *c.* Notwithstanding paragraph “*b*”, an ignition interlock  
4 device installed in a motor vehicle as required by this chapter  
5 shall not be uninstalled if the defendant has been convicted of  
6 tampering with or circumventing an ignition interlock device.

7     2. If the defendant fails a test or retest by an ignition  
8 interlock device installed in a motor vehicle as required by  
9 this chapter because the defendant’s alcohol concentration  
10 exceeded the limit established under 661 IAC 158.6, the failure  
11 shall be reported by the device or an entity monitoring the  
12 device to the department.

13     3. Upon revocation, and at such times as the department may  
14 require by rule, a defendant shall certify to the department  
15 that the defendant has installed an approved ignition  
16 interlock device in all motor vehicles owned or operated by  
17 the defendant. The department may adopt rules relating to the  
18 form, manner, and circumstances under which a defendant is  
19 required to submit a certification to the department that the  
20 defendant has installed an approved ignition interlock device  
21 in all motor vehicles owned or operated by the defendant.

22     4. *a.* An ignition interlock indigent user fund is created  
23 in the state treasury. The fund shall be administered by  
24 the department and shall consist of moneys collected by the  
25 department under this subsection. The moneys in the fund are  
26 appropriated to and shall be used by the department to assist  
27 indigent users of ignition interlock devices in paying for the  
28 use of the devices. Notwithstanding section 8.33, moneys in  
29 the fund at the end of each fiscal year shall not revert to any  
30 other fund but shall remain in the fund for expenditure for  
31 subsequent fiscal years.

32     *b.* Each month, the department shall assess an ignition  
33 interlock user fee to each user of an ignition interlock  
34 device. All ignition interlock user fees shall be collected by  
35 the department and deposited in the ignition interlock indigent

1 user fund. The amount of the monthly ignition interlock user  
2 fee shall be set by the department so that the moneys in the  
3 ignition interlock indigent user fund are sufficient to assist  
4 all indigent users of ignition interlock devices in paying for  
5 the use of the devices.

6 *c.* A person is indigent for the purposes of this subsection  
7 if any of the following apply:

8 (1) The person has an income level at or below one hundred  
9 twenty-five percent of the United States poverty level as  
10 defined by the most recently revised poverty income guidelines  
11 published by the United States department of health and human  
12 services, and the department determines that the person is  
13 unable to pay for the cost of an ignition interlock device. In  
14 making the determination of a person's ability to pay for the  
15 cost of a device, the department shall consider not only the  
16 person's income, but also the person's other assets, including  
17 but not limited to cash, stocks, bonds, and any other property.

18 (2) The person has an income level greater than one hundred  
19 twenty-five percent, but at or below two hundred percent, of  
20 the most recently revised poverty income guidelines published  
21 by the United States department of health and human services,  
22 and the department determines that paying for the ignition  
23 interlock device would cause the person substantial hardship.  
24 In determining whether substantial hardship would result, the  
25 department shall consider not only the person's income, but  
26 also the person's other assets, including but not limited to  
27 cash, stocks, bonds, and any other property.

28 *d.* The department shall adopt rules to administer this  
29 subsection, including but not limited to the manner used to  
30 determine the monthly ignition interlock user fee and the  
31 accepted form and manner in which a person may demonstrate  
32 indigency.

33 Sec. 37. Section 707.6A, subsections 1, 1A, 1B, 1C, 1D, and  
34 4, Code 2017, are amended to read as follows:

35 1. A person commits a class "B" felony punishable by

1 imprisonment not to exceed fifty years when the person  
 2 unintentionally causes the death of another by operating a  
 3 motor vehicle while intoxicated, as prohibited by section  
 4 321J.2.

5 ~~1A.~~ a. Upon a plea or verdict of guilty of a violation  
 6 of this subsection 1, the defendant shall surrender to the  
 7 court any Iowa license or permit and the court shall forward  
 8 the license or permit to the department with a copy of the  
 9 order of conviction. Upon receipt of the order of conviction,  
 10 the department shall revoke the defendant's driver's license  
 11 or nonresident operating privilege ~~for a period of six years~~  
 12 permanently. The defendant shall not be eligible for a any  
 13 temporary restricted license ~~for at least two years after the~~  
 14 ~~revocation~~.

15 ~~1B.~~ b. Upon a plea or verdict of guilty of a violation of  
 16 this subsection 1, the court shall order the defendant, at the  
 17 defendant's expense, to do all of the following:

18 ~~a.~~ (1) Enroll, attend, and satisfactorily complete a course  
 19 for drinking drivers, as provided in section 321J.22.

20 ~~b.~~ (2) Submit to evaluation and treatment or rehabilitation  
 21 services.

22 ~~1C. A driver's license or nonresident operating privilege~~  
 23 ~~shall not be reinstated until proof of completion of the~~  
 24 ~~requirements of subsection 1B is presented to the department.~~

25 ~~1D.~~ c. Where the program is available and appropriate for  
 26 the defendant, the court shall also order the defendant to  
 27 participate in a reality education substance abuse prevention  
 28 program as provided in section 321J.24.

29 4. a. A person commits a class "C" felony when the person  
 30 unintentionally causes a serious injury, as defined in section  
 31 702.18, by the means described in subsection 1. Upon a plea  
 32 or verdict of guilty of a violation of this paragraph "a", the  
 33 defendant shall surrender to the court any Iowa license or  
 34 permit and the court shall forward the license or permit to  
 35 the department with a copy of the order of conviction. Upon



1 receipt of the order of conviction, the department shall revoke  
 2 the defendant's driver's license or nonresident operating  
 3 privilege permanently.

4 b. A person commits a class "D" felony when the person  
 5 unintentionally causes a serious injury, as defined in section  
 6 702.18, by any of the means described in subsection 1 or 2.

7 Sec. 38. Section 809A.3, subsection 2, Code 2017, is amended  
 8 to read as follows:

9 2. Notwithstanding subsection 1, violations of chapter  
 10 321 or 321J shall not be considered conduct giving rise to  
 11 forfeiture, ~~except for violations~~ as provided in any of the  
 12 following:

13 a. Section 321.232.

14 ~~b. A second or subsequent violation of section 321J.4B,~~  
 15 ~~subsection 2, paragraph "a", subparagraph (2).~~

16 ~~c.~~ b. Section 321J.4B, subsection 6, 9, or 10.

#### 17 DIVISION III

#### 18 PERSONS INVOLVED IN THE SALE OF ALCOHOLIC BEVERAGES

19 Sec. 39. Section 123.39, subsection 1, paragraph b, Code  
 20 2017, is amended by adding the following new subparagraph:

21 NEW SUBPARAGRAPH. (7) Failure to submit a plan and  
 22 procedure for the transportation of intoxicated persons to the  
 23 satisfaction of the division or local authority as required by  
 24 section 123.50, subsection 6.

25 Sec. 40. Section 123.49, Code 2017, is amended by adding the  
 26 following new subsection:

27 NEW SUBSECTION. 1A. A person holding a liquor control  
 28 license or wine or beer permit for on-premises consumption  
 29 shall not sell, dispense, or give to a person any alcoholic  
 30 liquor, wine, or beer, if the person's driver's license is  
 31 marked pursuant to section 321.189, subsection 2, paragraph  
 32 "0c".

33 Sec. 41. Section 123.50, Code 2017, is amended by adding the  
 34 following new subsection:

35 NEW SUBSECTION. 6. If an employee of a licensee or

1 permittee violates section 123.49, subsection 1, the licensee  
 2 or permittee shall submit to the division or local authority  
 3 a plan and procedure for the licensee or permittee to obtain  
 4 transportation for intoxicated persons on the premises of the  
 5 licensee's or permittee's business from the licensee's or  
 6 permittee's business to the intoxicated person's home. Failure  
 7 to submit such a plan and procedure to the satisfaction of the  
 8 division or local authority shall be grounds for the suspension  
 9 or revocation of the license or permit of the licensee or  
 10 permittee by the division or the local authority.

11 Sec. 42. Section 123.50A, Code 2017, is amended by adding  
 12 the following new subsection:

13 NEW SUBSECTION. 5. An employee or prospective employee  
 14 of a licensee or permittee shall complete or re-complete the  
 15 alcohol compliance employee training program if the employee,  
 16 prospective employee, or another employee of the licensee  
 17 or permittee is convicted of a violation of section 123.49,  
 18 subsection 1 or 1A. The employee or prospective employee shall  
 19 attend the next available alcohol compliance employee training  
 20 program taking place within one hundred miles of the licensee's  
 21 or permittee's business.

## 22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with  
 24 the explanation's substance by the members of the general assembly.

25 DIVISION I — STATEWIDE SOBRIETY AND DRUG MONITORING  
 26 PROGRAM. This bill directs the department of public safety  
 27 (DPS) to establish a statewide sobriety and drug monitoring  
 28 program that is available 24 hours per day, seven days per  
 29 week. Under the program, a court or governmental entity, as  
 30 a condition of bond, pretrial release, sentence, probation,  
 31 parole, or a temporary restricted license, may require a person  
 32 who has been charged with, pled guilty to, or been convicted  
 33 of an eligible offense to abstain from alcohol and controlled  
 34 substances for a period of time. The bill provides that an  
 35 eligible offense is a criminal offense in which the abuse of

1 alcohol or a controlled substance was a contributing factor  
2 in the commission of the offense as determined by the court  
3 or governmental entity of the participating jurisdiction,  
4 including but not limited to a first or subsequent offense of  
5 operating while intoxicated (OWI).

6 The program requires a person to be subject to testing to  
7 determine whether alcohol or a controlled substance is present  
8 in the person's body at least twice per day at a central  
9 location where an immediate sanction can be applied. Where  
10 such testing creates a documented hardship or is geographically  
11 impractical, an alternative method approved by DPS may be used.

12 Hardship or geographic impracticality is determined by  
13 documentation and consideration of whether a testing device is  
14 available, whether the participant is capable of paying the  
15 fees and costs associated with the testing device, whether  
16 the participant is capable of wearing the testing device, and  
17 whether the participant fails to qualify for testing twice  
18 per day because the participant lives in a rural area, the  
19 participant's employment requires the participant's presence at  
20 a location remote from the testing location, or the participant  
21 has repeatedly violated the requirements of the program.

22 The bill prohibits a person who has been required to  
23 participate in the program and whose driver's license is  
24 suspended or revoked from participating in the program until  
25 the person is eligible for a temporary restricted license. A  
26 person must install an ignition interlock device on all motor  
27 vehicles owned or operated by the person to participate in  
28 the program. A person who has been charged with, pled guilty  
29 to, or been convicted of an eligible offense who has not  
30 been required to participate in the program may apply to the  
31 participating jurisdiction in order to participate.

32 If a jurisdiction applies to and is approved by DPS to  
33 participate in the program, the bill requires DPS to assist the  
34 jurisdiction in setting up and administering the program. The  
35 participating jurisdiction must establish testing locations and

1 may designate a third party to provide testing services.

2 Any efforts by DPS to alter or modify the core components  
3 of the program are required to include a documented strategy  
4 for achieving and measuring the effectiveness of the planned  
5 alteration or modification. Before the core components of the  
6 program can be altered or modified, a pilot program must be  
7 initiated and monitored.

8 The bill requires DPS to adopt rules providing for the nature  
9 and manner of testing; establishing reasonable fees; providing  
10 for the application, acceptance, and use of public and private  
11 grants, gifts, and donations; establishing a process for  
12 the identification and management of indigent participants;  
13 providing for the creation and administration of a stakeholder  
14 group to review and recommend changes to the program; and  
15 establishing a process for the submission and approval of  
16 applications from jurisdictions. The bill further requires the  
17 amount of the fees to be set at an amount such that the fees  
18 collected in a participating jurisdiction are sufficient to pay  
19 for the costs of the program in the participating jurisdiction,  
20 including all costs to the state.

21 In addition, the bill requires DPS to provide for and approve  
22 the use of a program data management system to be used by DPS  
23 and all participating jurisdictions to manage testing, test  
24 events, test results, data access, fees, the collection of fee  
25 payments, and the submission and collection of any required  
26 reports. The bill provides for certain required features of  
27 the data management system.

28 A court may condition any bond or pretrial release otherwise  
29 authorized by law for a person charged with an eligible offense  
30 upon participation in the program and payment of the required  
31 fees. A court may also condition a suspended sentence or  
32 probation otherwise authorized by law for a person convicted  
33 of an eligible offense upon participation in the program  
34 and payment of the required fees. Likewise, the board of  
35 parole, the department of corrections, or a parole officer

1 may condition parole otherwise authorized by law for a person  
2 convicted of an eligible offense upon participation in the  
3 program and payment of the required fees.

4 The bill requires an order or directive placing a  
5 participant in the program to include the type of testing  
6 required to be administered and the length of time that the  
7 participant is required to remain in the program. At the  
8 time of enrollment, a representative of the law enforcement  
9 agency of a participating jurisdiction must enter the  
10 participant's information into the data management system. The  
11 representative of the agency must provide the participant with  
12 the appropriate materials required by the program, inform the  
13 participant that the participant's information may be shared  
14 for law enforcement and reporting purposes, and provide the  
15 participant with information related to the required testing,  
16 procedures, and fees.

17 The bill provides that the law enforcement agency of a  
18 participating jurisdiction must establish and maintain a  
19 sobriety program account, and collect the required fees. The  
20 law enforcement agency must distribute a portion of the fees to  
21 any participating third-party designee in accordance with the  
22 agreement between the agency and the third-party designee, and  
23 the remainder of the fees collected must be deposited in the  
24 participating jurisdiction's sobriety program account and must  
25 be used only for the purposes of administering and operating  
26 the program.

27 The bill requires allegations that a participant failed  
28 a test, refused to submit to a test, or failed to appear  
29 for testing to be communicated ex parte by the participating  
30 jurisdiction, a law enforcement agency of the participating  
31 jurisdiction, or the participating jurisdiction's third-party  
32 designee to a magistrate as soon as practicable. A magistrate  
33 who receives such a communication may order the participant's  
34 immediate incarceration pending a hearing on the allegation  
35 but lasting no longer than 24 hours after the issuance of the

1 order, or if the participant failed to appear for testing as  
2 scheduled, the magistrate may issue a warrant for the arrest of  
3 the participant for a violation of the terms of bond, pretrial  
4 release, sentence, probation, or parole.

5     Upon the failure of a participant to submit to or pass a  
6 test under the program, the court may notify the department  
7 of transportation (DOT) of the participant's noncompliance  
8 and direct the DOT to withdraw the participant's temporary  
9 restricted license and reinstate the remainder of the license  
10 suspension or revocation period.

11     The bill requires DPS to submit a report to the general  
12 assembly detailing the effectiveness of the program and making  
13 recommendations by December 1, 2021.

14     DIVISION II — OPERATING WHILE INTOXICATED. The bill  
15 increases the look-back period for determining whether an  
16 OWI offense is a first or a subsequent offense from 12 years  
17 to 25 years. In addition, the bill requires an emblem to be  
18 displayed on the back of a person's driver's license if the  
19 person has been convicted of an OWI offense or has had the  
20 person's driver's license revoked under Code chapter 321J.

21     For a first offense of OWI, the bill increases the driver's  
22 license revocation period from 180 days to one year if the  
23 person submitted to a chemical test, and from one year to two  
24 years if the person refused a chemical test. For a second  
25 offense of OWI, the bill increases the driver's license  
26 revocation period from one year to two years if the person  
27 submitted to a chemical test, and from two years to four years  
28 if the person refused the chemical test. For a third offense  
29 of OWI, the bill strikes the driver's license revocation period  
30 of six years, requires the DOT to revoke a person's driver's  
31 license permanently, and provides that such a person is not  
32 eligible for a temporary restricted license. If a person  
33 guilty of any OWI offense seriously injures or kills another  
34 person, the bill also requires the DOT to revoke the person's  
35 driver's license permanently and provides that such a person is

1 not eligible for a temporary restricted license.

2 Under Code section 321J.4B (motor vehicle impoundment or  
3 immobilization), the bill removes from the definition of  
4 "immobilized" the installation of an ignition interlock device  
5 of a type approved by the commissioner of public safety. The  
6 bill increases the penalty for an owner of a vehicle impounded  
7 or immobilized, who knows of, should have known of, or gives  
8 consent to the operation of the vehicle by a person with a  
9 revoked driver's license due to an OWI violation from a simple  
10 misdemeanor to a serious misdemeanor. A serious misdemeanor  
11 is punishable by up to one year in prison and a fine of at  
12 least \$315 but not to exceed \$1,875. The bill also increases  
13 the minimum period of impoundment or immobilization from 180  
14 days to one year. In addition, the bill provides that a person  
15 who operates a vehicle with a revoked driver's license due to  
16 a second or subsequent OWI violation must have the person's  
17 vehicle seized and forfeited to the state. The bill also  
18 updates certain references in Code chapter 809A (forfeiture  
19 reform Act).

20 Under current law, a preliminary screening test is  
21 prohibited from being used in any court action except to  
22 prove that a chemical test was properly requested of a person  
23 pursuant to Code chapter 321J. The bill specifies that the  
24 results of a breath test administered after a preliminary  
25 screening test by a certified operator using a portable breath  
26 testing instrument may be used as evidence in any court action.

27 Current law provides for an expedited warrant procedure to  
28 withdrawal a specimen of breath, urine, or blood for chemical  
29 testing from a person involved in a traffic accident that  
30 has resulted in a death or personal injury reasonably likely  
31 to cause death, and there are reasonable grounds to believe  
32 that one or more persons whose driving may have been the  
33 proximate cause of the accident were operating a vehicle while  
34 intoxicated. The bill applies the expedited warrant procedure  
35 to any person who refuses a chemical test where the officer

1 has reasonable grounds to believe the person was operating a  
2 vehicle while intoxicated.

3 Current law requires a person guilty of operating while  
4 intoxicated (OWI) to install an ignition interlock device in  
5 the person's vehicle if the person seeks a temporary restricted  
6 license, unless the person's alcohol concentration was less  
7 than .10 and no accident occurred. This bill strikes that  
8 exception, and also requires a person guilty of OWI to install  
9 an ignition interlock device in the person's vehicle upon the  
10 revocation of the person's driver's license rather than upon  
11 the person's application for a temporary restricted license.

12 Under current law, an ignition interlock device is required  
13 to be installed in a person's vehicle for the period of time  
14 for which the person's temporary restricted license is issued,  
15 and up to one additional year after license reinstatement  
16 if the person has two or more OWI revocations. The bill  
17 requires the permanent installation of an ignition interlock  
18 device with one exception. If an ignition interlock device  
19 was installed in a vehicle as a result of a person's first  
20 OWI offense or revocation, the device must be uninstalled two  
21 years after the date the person's driver's license revocation  
22 period ends, 180 days after the date the person last failed a  
23 test or retest by the device, or 180 days after the date the  
24 person last failed to maintain the device as required under DPS  
25 rules, whichever is later. However, the bill provides that an  
26 ignition interlock device installed in a vehicle must not be  
27 uninstalled if the person has been convicted of tampering with  
28 or circumventing an ignition interlock device.

29 The bill provides that a test failure using an ignition  
30 interlock device must be reported by the device or an entity  
31 monitoring the device to the DOT. The bill also provides that  
32 upon revocation, and at such times as the DOT may require, a  
33 person must certify to the DOT that the person has installed  
34 an ignition interlock device in all vehicles owned or operated  
35 by the person.



1 The bill requires the DOT to assess a monthly ignition  
2 interlock user fee to each user of an ignition interlock  
3 device. All ignition interlock user fees will be collected  
4 by the DOT and deposited in an ignition interlock indigent  
5 user fund (IIIUF). The bill requires the DOT to use the moneys  
6 in the IIIUF to assist indigent users of ignition interlock  
7 devices in paying for the use of the devices. The amount of  
8 the monthly ignition interlock user fee shall be set by the DOT  
9 so that the moneys in the IIIUF are sufficient to assist all  
10 indigent users of ignition interlock devices in paying for the  
11 use of the devices.

12 Under the bill, a person is indigent if the person has an  
13 income level at or below 125 percent of the U.S. poverty level  
14 and the person is unable to pay for the cost of an ignition  
15 interlock device. A person is also indigent if the person has  
16 an income level greater than 125 percent, but at or below 200  
17 percent, of the U.S. poverty level and paying for the ignition  
18 interlock device would cause the person substantial hardship.

19 The bill increases the punishment for a person who  
20 unintentionally causes the death of another person by operating  
21 a vehicle while intoxicated from up to 25 years in prison to  
22 up to 50 years in prison. In addition, the bill increases  
23 the punishment for a person who unintentionally causes  
24 serious injury to another person by operating a vehicle while  
25 intoxicated from a class "D" felony to a class "C" felony. A  
26 class "C" felony is punishable by up to 10 years in prison  
27 and a fine of at least \$1,000 but not more than \$10,000. By  
28 operation of law, this prohibits a person who unintentionally  
29 causes serious injury to another person by operating a vehicle  
30 while intoxicated from being admitted to bail under Code  
31 section 811.1.

32 DIVISION III — PERSONS INVOLVED IN THE SALE OF ALCOHOLIC  
33 BEVERAGES. The bill prohibits a person holding a liquor  
34 control license or wine or beer permit (licensee or permittee)  
35 for on-premises consumption from selling, dispensing, or giving

1 another person any alcoholic liquor, wine, or beer, if the  
2 person's driver's license is marked to reflect that the person  
3 has been convicted of an OWI offense or has had the person's  
4 driver's license revoked due to an OWI violation. By operation  
5 of law, a violation of this provision is a simple misdemeanor  
6 and is grounds for the suspension or revocation of the license  
7 or permit of the licensee or permittee under Code section  
8 321.50, and may result in a civil penalty not to exceed \$1,000.

9 The bill requires a licensee or permittee with an employee  
10 who has served alcohol to an intoxicated person in violation  
11 of Code section 321.49 to submit to the alcoholic beverages  
12 division of the department of commerce or a local authority  
13 a plan and procedure for the licensee or permittee to obtain  
14 transportation for intoxicated persons on the premises of a  
15 licensee's or permittee's business from the business to the  
16 intoxicated person's home. Failure to submit such a plan  
17 and procedure to the satisfaction of the division or local  
18 authority is grounds for the suspension or revocation of the  
19 license or permit of the licensee or permittee, and may result  
20 in a civil penalty not to exceed \$1,000.

21 The bill also requires an employee or prospective employee  
22 of a licensee or permittee to complete or re-complete an  
23 alcohol compliance employee training program if the employee,  
24 prospective employee, or another employee of the licensee or  
25 permittee is convicted of serving alcohol to an intoxicated  
26 person or to a person with a driver's license marked to reflect  
27 that the person has been convicted of an OWI offense or has had  
28 the person's driver's license revoked due to an OWI violation.  
29 The bill requires the person to attend the next available  
30 alcohol compliance employee training program taking place  
31 within 100 miles of the licensee's or permittee's business.